

IN SENATE OF THE UNITED STATES.

MAY 18, 1848.

Submitted, and ordered to be printed.

Mr. NILES made the following

REPORT:

[To accompany bill S. No. 268.]

The Committee on the Post Office and Post Roads, to whom was referred the petition of L. P. Sanger, report:

It appears that the petitioner, in February, 1847, was solicited by the postmaster at Springfield, Illinois, to make proposals for carrying the mails on several mail routes which had been abandoned by O. Hinton & Co., the contractors, and that, on the 13th of said February, contracts were entered into between the petitioner and J. R. Diller, postmaster at Springfield, for and in behalf of the Post Office Department, for transporting the mail on route No. 4157, from Springfield to Peoria, at the rate of twenty-five dollars per trip both ways; and on route No. 4155, from Springfield to Rushville, at the rate of sixteen dollars per trip both ways. And on the 15th of February the petitioner entered into a contract with H. Dunlap, postmaster at Rushville, for carrying the mail on route No. 4226, Rushville to Burlington, at the rate of sixteen dollars per trip both ways. All of said contracts were to continue until the Postmaster General, who was then notified by letter of these arrangements, should direct otherwise.

That, at the time of making said contracts, your petitioner owned no stock on said routes, nor had he ever been interested in running stages or carrying the mail on the same; that he had to purchase stock to commence the service, which he continued to perform, agreeably to his contracts, until the 30th day of June following, when the routes were let to other persons, this period comprising the season of the year when the roads were in the worst state, and when the prospect for passengers was the least favorable, as the travel in that section does not commence until the opening of the lake navigation. During this period of three and a half months, no notice was given by the department or said postmasters to the petitioner that said contracts were disavowed, or that the payments would not be made according to the terms of the contracts.

In August following, when the petitioner applied for payment, it

was refused on the ground that the said postmasters had no authority to make the contracts, and that the price stipulated was unreasonable and extravagant. The Postmaster General, however, appears to have recognized the service, but not the stipulation as to the price, for he finally ordered payments to be made at a certain rate of compensation, which he assumed by taking the rate paid at the subsequent letting, and adding to it thirty-three and one-third per cent. for the temporary nature of the service. Under this rule there was paid, on the three routes, the sum of \$1,790 96; and petitioner was allowed time to produce proof of what was a fair and reasonable price for the service at that season of the year, and under all the circumstances under which it was performed. In pursuance of this understanding, the petitioner procured and offered in support of his claim the affidavits of a number of persons, certified to be intelligent and respectable citizens, all of which went to show that the contract price was reasonable, and, some of them, that it was very low. The Postmaster General, however, refused to make any additional payment of the claim.

The Postmaster General assumes that "the only obligation created by the arrangements of the postmasters, is to pay a fair and just compensation for the temporary service." As to the authority of the postmasters, it is believed to be the practice of the department to consider it the duty of postmasters, whenever a contractor fails to carry the mail, to engage some one to convey it temporarily, and immediately to inform the department of the default of the contractor, and the arrangement they have made. But aside from any such practice, it would seem to have been the duty of the department, if they did not approve of the arrangements for temporary service, to have immediately disavowed them, and to have given notice thereof, either to the postmasters or the petitioners. To suffer the petitioners to go on performing the service for more than three months, under a contract which they supposed was to control the price as well as the extent of the service, and then to disavow the contract, would be the most manifold injustice. To recognize the contracts, so far as respects the service, and to disavow it in regard to the price, is to make a new contract different from what the parties had made. The main question is, whether the Postmaster General was not, by every principle of law, justice, and good faith, bound to have disavowed the contracts at once if he did not intend to be bound by them; and whether, by not doing so, he has not approved and confirmed them. On these questions the committee cannot entertain any doubt.

In regard to the question of the unreasonableness of the price, it appears that, on all the routes, the sum is much greater than had been paid before and since, at the regular lettings of the routes. But it is evident that no one could afford to perform a temporary service, which might have continued only two or three weeks, and to stock the lines in whole or in part, for a rate of pay bearing any comparison to that for which the service could be performed under a contract for four years. And there are numerous affidavits

and depositions, from intelligent persons in that section of the country, some of whom have been engaged in transporting the mail, who testify that, under the circumstances, they consider the price stipulated as reasonable.

The committee therefore report a bill to pay the petitioner according to his contracts, deducting what has been paid to him by the department.

